

This letter provides a reference to the Department's rules regarding maintenance agreements. See 86 Ill. Adm. Code 140.101. (This is a GIL.)

April 19, 2004

Dear Xxxxx:

This letter is in response to your letter dated October 23, 2003, in which you request information. We apologize for the delay in responding to your inquiry. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

XYZ provides a complete solution for financial transactions that require the determination, calculation, and reporting of U.S. sales and use tax. The XYZ system automatically determines sales and use tax for all state, county, city, transit or special district taxes associated with a given address. XYZ also provides product taxability. XYZ determines whether particular products are taxable or exempt, and customers map their products to our product listing.

We are seeking guidance on the taxability of maintenance contracts (not including those associated with computer software). Our specific product taxability questions are detailed below. It would be helpful to us if you indicate any statutes or authorities you use.

Questions:

1. Are mandatory maintenance contracts that are required as a condition of the sale subject to sales or use tax in Illinois?
2. Are optional maintenance contracts subject to sales or use tax in Illinois?

Thank you for your assistance in this matter.

DEPARTMENT'S RESPONSE:

You have inquired about how maintenance contracts are taxed. Please see part (3) of subsection (b) of Section 130.401 of the Department's administrative rules regarding maintenance agreements. 86 Ill. Adm. Code 140.301. This rule can be viewed on the Department's Internet website listed below. In addition to this rule, you may want to review some of the Department's previous letter rulings on this issue, such as ST-02-0117-GIL. These letter rulings are also available on the Department's website.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk